

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA

RICHARD LEE LEWIS,)	
)	
Petitioner,)	
)	
vs.)	No. CIV-05-447-C
)	
DAVID MILLER, Warden,)	
)	
Respondent.)	

REPORT AND RECOMMENDATION

Petitioner, a federal prisoner appearing *pro se*, brings this Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. §2241. This matter has been referred to the undersigned Magistrate Judge for initial proceedings consistent with 28 U.S.C. §636(b)(1)(B).

Petitioner filed his Motion for Leave to Proceed *In Forma Pauperis* on April 20, 2005. After reviewing the motion, United States Magistrate Judge Valerie Couch found that Petitioner had sufficient funds to pay the \$5 filing fee and directed Petitioner to do so by May 10, 2005. The Court further advised Petitioner that failure to pay the filing fee by May 10, 2005, would subject the action to dismissal without prejudice. As of this date, Petitioner has failed to pay the \$5 filing fee or file any further pleadings with the Court.

Petitioner's lack of interest in complying with the Court's Order combined with the Court's attempt to manage and control its caseload warrant a dismissal of the Petition without

prejudice. Brandenburg v. Beaman, 632 F.2d 120, 122 (10th Cir. 1980) (*per curiam*), cert. denied, 450 U.S. 984 (1981).

RECOMMENDATION

In view of the foregoing, the undersigned recommends the action be dismissed without prejudice. The Petitioner is advised of his right to file an objection to this Report and Recommendation with the Clerk of this Court on or before June 6, 2005, and in accordance with 28 U.S.C. §636 and LCvR 72.1. Petitioner is further advised that failure to make a timely objection to this Report and Recommendation waives his right to appellate review of both factual and legal issues contained herein. Moore v. United States, 950 F.2d 656 (10th Cir. 1991).

This Report and Recommendation disposes of all issues referred to the undersigned Magistrate Judge in the captioned matter.

ENTERED this 16th day of May, 2005.


GARY M. PURCELL
UNITED STATES MAGISTRATE JUDGE